



Appeal Decision

Site visit made on 9 June 2020

by R Walker BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 June 2020

Appeal Ref: APP/J4423/W/19/3242080

The Old Station Yard, Rotherham Road, Beighton, Sheffield S20 1AE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by William Henry Whiting & Kirk Biggins (Beighton Breakers) against the decision of Sheffield City Council.
 - The application Ref 18/02149/OUT, dated 25 June 2018, was refused by notice dated 15 October 2019.
 - The development proposed is outline application (all matters reserved) for residential development.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The planning application was made in outline with all matters reserved. As such, I have regarded all elements of the drawings submitted as indicative.
3. The site address in the decision notice differs slightly from that given in the application form. I have adopted the address used by the appellants in the banner heading which accurately identifies the appeal site.
4. The description given in the planning application form, appeal form and decision notice differ. The description in the application form refers to 14 dwellings whereas the appeal form refers to 13. An amended indicative layout plan was submitted during the application which reduced the number of dwellings shown from 14 to 13. However, given that the application is in outline with all matters reserved I have used the description given on the Council's decision notice in the banner heading above.
5. Since the appeal was lodged, the Government has published its 2019 Housing Delivery Test (HDT) results. This confirms that the Council's delivery has, as it did in the 2018 HDT results, exceeded the requirement over the last 3 years. As there has been no change in circumstances no party has been prejudiced in the appeal process by the publication of the 2019 HDT results.

Main Issue

6. The main issue is whether the site represents an appropriate location for the proposed development having regard to its flood zone location.

Reasons

7. The appeal site is a parcel of land located within Flood Zone 1 and 2 according to the Environment Agency's (EA) published flood risk mapping. However, the EA has confirmed that the latest modelling shows the site to be within Flood Zone 3a. In the absence of any substantive evidence to the contrary I am satisfied that the appeal site should be treated as Flood Zone 3a for the purposes of this appeal.
8. Policy CS67 of the Sheffield Development Framework Core Strategy (CS) (adopted 2009) stipulates that the extent and impact of flooding will be reduced by, amongst other things, developing areas with high probability of flooding only for water-compatible uses, unless an overriding case can be made and adequate mitigation proposed. Criteria M-P of Policy CS67 are only applied where the overriding case has been established.
9. The supporting text for Policy CS67 says that the overriding reasons will be set out using the Sequential Test (ST) and, where necessary the Exception Test (ET). In other words, a ST should be undertaken, and planning permission should not be granted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. Policy CS67 is broadly in line with the guidance contained within the National Planning Policy Framework (the Framework) including, amongst others, paragraphs 155 and 158.
10. Although a ST was submitted by the appellants, there is limited information regarding individual sites or justification of its scope, such as the area covered or why a 6-month period was adopted for assessing applications.
11. I recognise that alternative brownfield sites cited by the Council within its Strategic Housing Land Availability Assessment (SHLAA) Interim Position Paper 2017 may have financial challenges and technical constraints. Moreover, considering individual sites would take time. However, even having regard to the allowance for a pragmatic approach to the availability of alternative sites, the appellants have not provided any detailed site analysis or specific evidence related to alternative sites within the SHLAA.
12. I therefore find that the proposal fails the ST. It is therefore not necessary for me to go on to consider whether the ET is met for the purposes of making my decision.
13. I have had regard to the ground levels, proposed flood mitigation measures, EA's comments and the requirements of, amongst others, paragraphs 150, 160, 163 and 165 of the Framework. However, my conclusions on the failure of the ST alone, demonstrate that the appeal site is not an appropriate location for the proposed development having regard to its flood zone location. I therefore conclude that the proposal would conflict with the requirements of Policy CS67 of the CS and paragraphs 155 and 158 of the Framework.

Other Matters

14. The Council is unable to demonstrate a 5 year supply of housing. However, the Framework says that the presumption in favour of sustainable development does not apply where the application of policies that protect areas or assets of particular importance provides a clear reason for refusal. Areas at risk of

flooding are an example of such areas and the proposal is contrary to the relevant paragraphs of the Framework in this regard.

15. Nevertheless, the provision of additional dwellings to the local housing market would be a benefit of the proposed development. However, given the modest scale of development proposed, the associated benefits would be reasonably limited and outweighed by the harm given the nature and extent of harm outlined in the Main Issue section. I have come to this conclusion having regard to the importance that the government places on boosting the supply of housing including starter homes, locating and building sustainably, creating places that are inclusive and accessible and making effective use of land including brownfield land.
16. I have also had regard to third party representations made including, amongst other things, the effect of the proposal on ecology, noise and traffic. However, as I am dismissing the appeal on other grounds, I have not pursued these matters further.

Conclusion

17. For the above reasons and having had regard to all matters raised the appeal is dismissed

Robert Walker

INSPECTOR